UN

UNITED NATIONS **E**

Economic and Social Council

Distr.
GENERAL

E/CN.4/Sub.2/1995/NGO/27
8 August 1995

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Forty-seventh session
Agenda item 6

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII)

Written statement submitted by the International Committee for European Security and Cooperation, a non-governmental organization in consultative status (category II)

The Secretary-General has received the following communication, which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[3 August 1995]

Hostage-taking

1. The International Committee for European Security and Cooperation, traditionally, refrains from taking sides in conflicts, particularly in the non-European parts of the world. Instead, it seeks to respond to corresponding suggestions by promoting among the parties concerned a better understanding of the often forgotten roots of a given conflict, and to offer its good offices and related research, analysis and communication services in particular (E/CN.4/1995/NGO/47; E/CN.4/1995/NGO/51; E/CN.4/1995/NGO/52). In this sense, the present paper focuses on Kashmir, the territorial dispute over which has been the subject of close attention by the Security Council and other United Nations bodies. And though the hostage situation there may be

"resolved" one way or another by the time of publication of this paper, an objective account of the publicly available information may still be helpful for effectively addressing the issues involved, including those which are seen to have give rise to the abduction of five European and American nationals on a trekking trip in Kashmir and to similar but less publicized hostage-takings.

2. Hostage-takings anywhere by anybody - be it an ordinary criminal, a guerilla group or government agents - are cowardly and most reprehensible acts which cannot be tolerated by any responsible authority, nor must they be belittled or encouraged by those involved in efforts to fight human rights abuses by the authorities in place. Perhaps in each case which hits the front pages we, the citizens, as the sovereigns of our societies, are predictably - and self-damagingly and dangerously so - not sufficiently outraged, determined or capable to act on the level of the problem. For our senses have become numb to such aggressions due to non-violent but no less real routine hostage-takings by striking employees of airlines, marine companies and other providers of public services. This being said, and thus without in any way encouraging the degrading practice of hostage-taking, there appears to be no harm to try to shed light on the causes of such actions of despair, to listen particularly to weak voices trying to communicate related grievances, and to seek ways and means to effectively alleviate them also by helping to re-establish the manifestly broken-down communication channels of the competing social and political forces involved. In this sense, a closer look at the case at hand may offer insights and indicate possible pathways which may also be useful in other situations. The ICESC has not yet received responses to all of its related communications; it thus presents, with all due reservations, the following personal account by a close Indian observer of the scene:

> "On the background of almost half a century of festering wounds inflicted on the Kashmir people after Britain withdrew from the Subasian continent, guerrillas appeared in the Kashmir Valley in early 1990 in the wake of the retreat of Soviet forces from Afghanistan. They stirred up the religious situation and caused public disorder. They destabilized the local government, weakened the law enforcement machinery, and thus gave rise to an exodus of most of the ethno-religious minorities. In response, the central authorities brought in security forces. A climate of general uncertainty and fear descended upon the land and its people and human rights violations became rampant.
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> "Kashmir is an attraction for naturalists, tourists and trekkers. While trekking in the mountains of South Kashmir (Indian part), four Europeans and two Americans were kidnapped around 4 July 1995 by a group of armed men. The names of the hostages are Paul Well and Keith Monigam (Britons), Donald Freid and John Childs (Americans), Dirk Hesert (German) and Hans Christian Ostro (Norwegian). John Childs somehow managed to escape and was saved when an Indian helicopter spotted him over the barren mountains and picked him up.

"In his subsequent statement, Mr. Childs said that there were 16 persons - 12 from the Pakistani part of Kashmir - 2 from Afghanistan, and 2 local Kashmiris acting as guides. He specified that the kidnappers carried sophisticated weapons and communications equipment.

"A hitherto undeclared militant group calling itself Al-Faran claimed responsibility for this kidnapping in a written statement. In subsequent oral communications with the State authorities the kidnappers' spokesman spoke with a Pushtu accent (which is not spoken in the Kashmir Valley). Al-Faran demanded the release of 21 militants arrested by the Indian security forces in the course of their operations. Among those demanded to be released were three top activists of groups based outside the Indian part of Kashmir, namely Masood Azhar of Kousar Spoty in Bhawalpur, Pakistan, Sajjad Khan, chief of Harakatul Mujahideen of Rawalakot (Pakistan part of Kashmir), and the chief of Harakat-e-Jehad-e-Islami. The latter two groups had merged to form Harakatul-Ansar which has been listed as a terrorist group by the United States State Department.

"These kidnappings took place soon after the United States Ambassador to India, H.E. Frank Wisner, had paid a visit to Kashmir and met with leading dissident leaders. Nevertheless, one dissident group, namely Jamiat-ul-Mujahideen, issued a statement saying that Kashmiris expected nothing from the Americans.

"One Indian newspaper, The Tribune of 23 July 1995, reported that the abductors had forced the hostages to march over some difficult mountain terrain, and that they were beaten up and suffered minor injuries when, due to their being exhausted, they baulked at going any further. Meanwhile, Indian authorities denied that any armed clashes took place between the security forces and the kidnappers.

"The United States called upon the Al-Faran group to release all the captives unharmed. Both the United States and the United Kingdom urged the chief of the Islamabad-based Jamiat-e-Ulema to use his influence and good offices with Harakatul-Ansar for the release of the captives. Similar appeals were made by the Pakistani Prime Minister, the Organization of Islamic States and other organizations and personalities. In exchange for a prompt and unharmed release of hostages, ICESC offered to sponsor a duly nominated representative so that the grievances which led to the hostage-takings may be heard directly at the United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities. The Indian Government demonstrated considerable restraint in not storming the hide out of the kidnappers so as not to endanger the lives of the hostages. Representatives of the American and the British embassies in New Delhi were moved to Srinagar to negotiate the release of their own and of the other nationals."

3. This, of course, was not the first time that foreigners were taken hostage by militants. It was as shocking as it was a telltale sign of the times we live in and of developments that must be reckoned with when so-called

"uncontrollable students" turned into hostages the entire staff of the United States Embassy in Tehran in 1979. Eleven years later, even an internationally recognized Government, that of Iraq, remembered the lessons to be learned from that gross aberration of civilized man, for in the wake of its invasion of Kuwait on 2 August 1990, its leaders drove themselves into believing that they could effectively blackmail the world and get away with it. And only a few months ago, members of a self-appointed Government, longing for understanding of its cause for recognition by the world community and for assistance for a viable way out of the present quagmire in the former Yugoslavia, saw fit to turn United Nations "peace-keepers" into hostages, i.e. those who, on behalf of the same world community, were putting their lives at risk for a chance to prevent the conflict from escalating further and possibly beyond control.

4. The Commission on Human Rights has repeatedly heard testimonies about the growing desert in the knowledge and application of the international humanitarian law, of the human rights conventions and of the thus-enshrined unequivocal prohibition and condemnation of the practice of hostage-taking, be it by private persons, State agents or those under the latter's control. These practices have been recognized as gross violations of human rights and fundamental freedoms. The practice of blackmailing the legal authorities into releasing duly arrested persons violates the human rights of both the kidnapped persons and of those who were to be protected against further rights abuses by the arrested persons in question. It undermines the rule of law at a time of increasing social, economic and political instability, unrest and even upheavals, i.e. when respect for the related principles are more than ever called for lest the ships of State further lose their stability, orientation and sense of purpose.

5. ICESC invites the Sub-Commission and all in a position to be of help to take note of this state of affairs and to assist in every possible way not only in the prompt, principled and hostage-friendly resolution of the cases concerned, but also in making them less likely through securing the channels of communication to all those who consider themselves deprived of human rights and fundamental freedoms and have a story to tell to the world. ICESC intends to continue to avail its good offices to that effect - as its token contribution to increased respect for human rights and fundamental freedoms, to improvement of living conditions, and towards strengthened peace and security in any part of the world.